1980 No. 334

POLICE

Royal Ulster Constabulary Pensions (War Service) Regulations 1980

Made . . . . . *30th September 1980*

Coming into operation . . . *15th November 1980*

To be laid before Parliament

The Secretary of State, in pursuance of section 25 of the Police Act (Northern Ireland) 1970(**a**) read with Articles 14 and 15 of the Superannuation (Northern Ireland) Order 1972(**b**) and after consulting, in accordance with section 34(2) of the said Act, the Police Authority for Northern Ireland and the Police Association for Northern Ireland and, in accordance with section 2(3) of the Police Negotiating Board Act 1980(**c**), the Police Negotiating Board for the United Kingdom, hereby with the concurrence of the Minister for the Civil Service makes the following regulations:—

PART I

CITATION, OPERATION, INTERPRETATION, ETC.

Citation

1. These regulations may be cited as the Royal Ulster Constabulary Pensions (War Service) Regulations 1980.

Commencement and effect

2. These regulations shall come into operation on 15th November 1980 and shall have effect as from 1st April 1975.

Interpretation

3.—(1) In these regulations—

"the Order of 1949" means the Royal Ulster Constabulary Pensions Order 1949(**d**);

"the principal regulations" means the Royal Ulster Constabulary Pensions Regulations 1973(**e**);

"member" means a member of the Royal Ulster Constabulary.

(2) These regulations shall be construed as one with the principal regulations except that, in relation to a member who has not served as such on or after 1st April 1972, they shall be construed as one with the Order of 1949.

War service

4.—(1) In these regulations any reference to a person's war service is, subject to paragraph (2), a reference to whole time service on or after 3rd September 1939 but before 1st July 1950 in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in Schedule 1 to the Superannuation Act 1946(**f**).

(**a**) 1970 c. 9 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(**b**) S.I. 1972/1073 (N.I. 10)
(**c**) 1980 c. 10
(**d**) S.R. & O. (N.I.) 1949 No. 211 (p. 379) as amended by S.R. 1976 No. 401; S.R. 1980 No. 102
(**e**) S.R. & O. (N.I.) 1973 No. 317 (II, p. 1722) as amended by S.R. 1976 No. 401 (II, p. 2231); S.R. 1978 No. 73 (I, p. 180) and S.R. 1980 No. 99
(**f**) 1946 c. 60

(2) For the purposes of these regulations no account shall be taken of a person's period of war service, or that part thereof—

(*a*) that was performed before he attained the age of 18 years, or

(*b*) in respect of which he received non-effective pay or excess remuneration, within the meaning of paragraph (3), which he has not repaid, or

(*c*) by virtue of which an armed force's pension or retired pay is payable to him in pursuance of any Royal Warrant or other instrument otherwise than in respect of disablement, or

(*d*) by virtue of which he is entitled to reckon a period of pensionable service otherwise than in pursuance of these regulations, or

(*e*) which he has reckoned or has had the opportunity to reckon for the purposes of a public service pension scheme within the meaning of section 51(3)(*b*) of the Social Security Act 1973(**g**).

(3) In paragraph (2)(*b*)—

(*a*) the expression "non-effective pay" includes naval, military or air force pensions, retired pay or gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(**h**) applied);

(*b*) the expression "excess remuneration" means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer's former employment in those forces, and, for the purposes of paragraph (2)(*b*), the Police Authority shall be entitled to rely upon a certificate, signed by a duly authorised officer of the Ministry of Defence, that non-effective pay or excess remuneration was, or was not, paid in respect of any period and as to the sufficiency of any repayment.

Notice

5. Any notice for the purposes of these regulations shall be given in writing to the Police Authority.

Qualified member

6.—(1) These regulations shall have effect in the case of a member, other than one who died before 1st April 1975 or retired before that date without a pension—

(*a*) who completed a period of war service,

(*b*) who after completing his war service and before 1st July 1950 served as a member, or as a member of a police force in Great Britain, and

(*c*) who is (or, immediately before his death, was) entitled to reckon pensionable service by virtue of that period of service as a member, or as a member of a police force in Great Britain.

(2) In these regulations any reference to a qualified member is a reference to such a member as is mentioned in paragraph (1).

Limitation on effect of reckoning war service

7.—(1) Nothing in these regulations shall affect the calculation of a pension payable in respect of a period ending before 1st April 1975 and no payment shall be made in respect of such a period in the case of a pension which would not have been payable (on account of that or some other pension) but for these regulations.

(**g**) 1973 c. 38
(**h**) 9 & 10 Geo. 6 c. 13 (repealed by 1952 c. 10)

(2) Nothing in these regulations shall affect the calculation of a transfer value other than one payable under regulation 75A of the principal regulations in the case of a member who ceased to serve as such on or after 1st April 1975.

PART II

RECKONING OF WAR SERVICE

Members' elections

8.—(1) A qualified member may, in accordance with this regulation, by notice elect to reckon pensionable service by virtue of such period of war service as he may specify in the notice (''the specified period of war service'') for all the purposes of the principal regulations or, as the case may be, of the Order of 1949 except for the purposes of the calculation of a widow's pension or child's allowance (whether or not by reference to his own pension or notional pension).

(2) A qualified member who elects under paragraph (1) may also so elect to reckon pensionable service by virtue of the specified period of war service for the purposes excepted in paragraph (1).

(3) Subject to the payment conditions contained in regulation 9 being satisfied, in the case of a qualified member who elects as mentioned in paragraph (1) or in paragraphs (1) and (2), the principal regulations or, as the case may be, the Order of 1949 shall have effect as though he had been entitled, immediately before his retirement (or death while serving) to reckon an additional period of pensionable service equal to a half of his specified period of war service so, however, that where a qualified member elects only as mentioned in paragraph (1), this paragraph shall not have effect for the purposes excepted in paragraph (1) and for those purposes his pension shall be deemed to be the pension to which he would be entitled without his additional period of pensionable service under this paragraph.

(4) Notice for the purposes of paragraph (1) or (2)—

(*a*) shall be given by a qualified member not earlier than three months before his intended retirement nor later than three months, or such longer period as the Police Authority may allow in the circumstances of his case, after his retirement, and

(*b*) shall be of no effect if he dies while serving or if it is given more than three months before his actual retirement:

Provided that a qualified member who retired before 15th November 1980 may give notice for the said purposes within three months of that date or within such longer period as the Police Authority may allow in the circumstances of his case.

(5) Where under paragraph (4) the Police Authority allow notice to be given more than three months after 15th November 1980 or the date on which the qualified member retires, as the case may be, then, unless the Police Authority are satisfied that the delay was due to circumstances beyond his control—

(*a*) he shall not be entitled to any payment under these regulations in respect of the period before his application is received by the Police Authority;

(*b*) paragraph 2 of Part I of the Schedule shall apply to him with the omission of sub-paragraph (*a*) and the words ''in any other case''; and

(*c*) regulations 13 and 14 shall not apply to him.

(6) Where a notice for the purposes of paragraph (1) or (2) specifies the whole of a qualified member's period of war service and a shorter period of war service would be sufficient to produce the same benefits, the notice shall be deemed to specify that period.

Members' method of payment

9.—(1) Subject to paragraph (5), the payment conditions referred to in regulation 8(3) shall be satisfied if, within three months of the member concerned exercising his

right of election, or within such longer period as the Police Authority may allow in the circumstances of his case, there is paid to the Police Authority the appropriate sum calculated—

(*a*) so far as concerns an election under regulation 8(1), in accordance with Part I of the Schedule;

(*b*) so far as concerns an election under regulation 8(2), in accordance with Part II of the Schedule;

(2) Where the member concerned ceased to serve as such before 15th November 1980 and, on that date he was in receipt of a pension then, without prejudice to paragraph (1), the payment conditions shall be satisfied if, within the three-month period mentioned in paragraph (1) by notice he undertakes to pay the appropriate sum by regular instalments of such amount that the payment of the sum will be completed within a period of five years:

Provided that—

(*a*) he may at any time discharge his liability under the undertaking, in whole or in part, by paying the whole or part of the balance then outstanding;

(*b*) if he dies before discharging his liability under the undertaking, the balance shall be payable immediately.

(3) Where the member concerned is entitled to a deferred pension which has not come into payment within the three-month period referred to in paragraph (1), the payment conditions shall be satisfied if, within three months of the pension coming into payment there is paid to the Police Authority the appropriate sum.

(4) Where the member concerned has commuted a portion of his pension for a lump sum of an amount not less than that of the appropriate sum and payment of the lump sum has not been made, he may by notice instruct the Police Authority to deduct the appropriate sum from the lump sum before making payment thereof; and in such case the giving of the notice shall be treated for the purposes of this regulation and of the Schedule as if it were the payment of the appropriate sum.

(5) Where the member concerned is retiring in circumstances in which a transfer value is payable under regulation 75A of the principal regulations, the payment condition referred to in regulation 8(3) shall be satisfied if the appropriate sum, calculated as provided in paragraph (1), is paid to the Police Authority before he retires or is deducted by the Police Authority from the amount of the transfer value which would otherwise be payable under regulation 75A.

Widows' election and method of payment

10.—(1) This regulation shall apply where a qualified member died before 15th November 1980 or dies while serving or while entitled to give notice for the purposes of regulation 8, not having elected thereunder or having elected only as mentioned in regulation 8(1).

(2) The widow of a member to whom this regulation applies who has not elected as mentioned in regulation 8(1) may, in accordance with this regulation, by notice request that he be deemed to have so elected and to have specified the period of war service specified in the notice.

(3) The widow of a member to whom this regulation applies who has, or is deemed to have, elected as mentioned in regulation 8(1) may by notice request that he be deemed to have elected as mentioned in regulation 8(2).

(4) Effect shall be given to requests under paragraphs (2) and (3) and, subject to paragraphs (5) and (6), regulations 8(3) and 9(1) and (2) and the Schedule shall have effect accordingly.

(5) Regulation 9 shall have effect—

(*a*) as if the reference in paragraph (1) thereof to the member exercising his right of election were a reference to the widow giving the relevant notice;